

UNITED STATES DISTRICT COURT

DISTRICT OF ALABAMA

OFFICE OF THE CLERK

POST OFFICE BOX 711

MONTGOMERY, ALABAMA 36101-0711

DEBRA P. HACKETT
CLERK

September 27, 2007

TELEPHONE
(334) 954-3610

Mr. Thomas K. Kahn, Clerk
USCA, Eleventh Circuit
56 Forsyth Street, NW
Atlanta, GA 30303

USDC No. CR-06-W-14-N

USCA No. 07-13378-G

In Re: USA VS. MOSES PENNIC, III

CERTIFICATE OF READINESS OF RECORD ON APPEAL

Pursuant to Fed.R.App.P. 11(c) the Clerk of the District Court for the Middle District of Alabama hereby certifies that, as shown on the enclosed index, the record is complete for purposes of this appeal. The record (including the transcript(s) or parts thereof designated for inclusion and all necessary exhibits) consists of:

1 Volume(s) of Pleadings

1 Volume(s) of Transcripts

 Exhibits: Box Binders: Envelopes;

 Other: SEAL Envelope (s) :1 PSI(s)

 Other:

Please acknowledge receipt on the enclosed copy of this letter.
Sincerely,

DEBRA P. HACKETT, Clerk

By: Yolanda Williams

cc: **DONNIE WAYNE BETHEL**
CHRISTINE A. FREEMAN
JOHN T. HARMON
TODD A. BROWN
CHRISTOPHER A. SNYDER
LEURA GARRATT CANARY

APPEAL, CLOSED

**U.S. District Court
Alabama Middle District (Montgomery)
CRIMINAL DOCKET FOR CASE #: 2:06-cr-00014-WKW-SRW All Defendants
Internal Use Only**

Case title: USA v. Pennic

Date Filed: 01/20/2006

Date Terminated: 07/20/2007

Assigned to: Honorable William Keith
WatkinsReferred to: Honorable Susan Russ
WalkerAppeals court case number: '0713378-G'
'USCA'**Defendant****Moses Pennic, III (1)**
*TERMINATED: 07/20/2007*represented by **Barry Elvin Teague**
138 Adams Avenue
P. O. Box 586
Montgomery, AL 36101
(334) 834-4500
Fax: 834-4501
Email: beteague36@aol.com
TERMINATED: 10/05/2006
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
*Designation: Retained***Donnie Wayne Bethel**
Federal Defenders
201 Monroe Street
Suite 407
Montgomery, AL 36104
334-834-2099
Fax: 834-0358
Email: don_bethel@fd.org
ATTORNEY TO BE NOTICED
*Designation: Public Defender or
Community Defender Appointment***Kevin L. Butler**
Federal Defenders

Middle District of Alabama
201 Monroe Street, Suite 407
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334-834-2099
Fax: 834-0353
Email: kevin_butler@fd.org
ATTORNEY TO BE NOTICED
Designation: Public Defender or
Community Defender Appointment

Pending Counts

21:841(a)(1)CONTROLLED
SUBSTANCE - SELL, DISTRIBUTE,
OR DISPENSE - NMT \$250,000; {*};
NLT 5Y; B; NMT 3Y SUP REL;
G-LINES; VWPA; \$100 SA
(1)

18:924(c)(1)(A)VIOLENT
CRIME/DRUGS/GUN - NMT
\$1,000,000; {*} ; NMT 20Y; B; NLT
3Y SUP REL; G-LINES; VWPA; \$100
SA (FORFEITURE ALLEGATION)
(2)

Disposition

12 Mos, 1 Day Imp; 3 Yrs Sup Rel;
\$100 AF

DISMISSED UPON MOTION BY
THE GOVERNMENT

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition**Highest Offense Level (Terminated)**

None

Complaints

None

Disposition**Plaintiff**

USA

represented by **John T. Harmon**
U.S. Attorneys Office
PO Box 197
Montgomery, AL 36101-0197
334-223-7280

Fax: 334-223-7560
 Email: john.harmon@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

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 Email: christopher.a.snyder@usdoj.gov
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
01/20/2006	①	INDICTMENT as to Moses Pennic, III (1) count(s) 1, 2. (jct,) (Entered: 01/23/2006)
01/20/2006	②	*SEALED* Limits of Punishment as to Moses Pennic, III: (jct,) (Entered: 01/23/2006)
01/23/2006	③	*SEALED* WARRANT Issued as to Moses Pennic, III. (jct,) (Entered: 01/23/2006)
01/25/2006	④	Case unsealed as to Moses Pennic, III Pursuant to USM's Notice of Arrest (snc) (Entered: 01/25/2006)
01/25/2006	⑤	Arrest of Moses Pennic, III (jct,) (Entered: 01/25/2006)
01/25/2006 SEALED	⑥	Non-Surety Bond Entered as to Moses Pennic, III in amount of \$ 25,000.00, (jct,) (Entered: 01/25/2006)
01/25/2006 SEALED	⑦	ORDER Setting Conditions of Release as to Moses Pennic III (1) \$25,000.00 non-surety . Signed by Judge Susan Russ Walker on 1/25/06. (jct,) (Entered: 01/25/2006)

CONT VOL. 1.

01/25/2006	⑥	WAIVER of Speedy Trial by Moses Pennic, III (jct,) (Entered: 01/25/2006)
01/25/2006	⑦	Minute Entry for proceedings held before Judge Susan Russ Walker :Arraignment as to Moses Pennic III (1) Count 1,2 held on 1/25/2006, Initial Appearance as to Moses Pennic, III held on 1/25/2006, Plea entered by Moses Pennic III (1) Not Guilty on counts 1,2; Notice to retained counsel hand delivered in open court. (Recording Time 2:05 -2:20.) (jct,) (Entered: 01/25/2006)
01/25/2006	⑧ Sealed	Arrest Warrant Returned Executed in case as to Moses Pennic, III. Defendant arrested on 1/25/2006. (sql,) (Entered: 01/26/2006)
01/27/2006	⑨	ORDER ON ARRAIGNMENT as to Moses Pennic, III Pretrial Conference set for 2/27/2006 03:00 PM in Courtroom 5B before Honorable Susan Russ Walker. Jury Trial set for 6/26/2006 before Honorable William Keith Watkins. Pretrial Motions due by 2/24/2006. Discovery due by 1/27/2006.. Signed by Judge Susan Russ Walker on 1/27/2006. (sql,) (Entered: 01/27/2006)
02/08/2006	⑩	NOTICE of Change of mailing address from U. S. Pretrial Services as to Moses Pennic, III. (NO PDF ATTACHED) (jct,) (Entered: 02/09/2006)
02/15/2006	⑪	MOTION to Continue Pretrial Conference by Moses Pennic, III. (ajr,) (Entered: 02/15/2006)
02/16/2006	⑫	ORDER as to Moses Pennic, III granting <u>⑩</u> MOTION to Continue pretrial conference; Pretrial Conference set for 2/27/06 is RESET for 3/27/2006 03:00 PM in Courtroom 5B before Judge Susan Russ Walker; furnished to JT, YG, HC. Signed by Judge Susan Russ Walker on 6/16/06. (ajr,) Modified on 3/8/2006 to correct hearing Judge (ajr,). (Entered: 02/16/2006)
03/08/2006	⑬	Reset Hearing as to Moses Pennic, III (pursuant to document <u>⑪</u> ; Pretrial Conference set for 3/27/2006 03:00 PM in Courtroom 5B before Honorable Susan Russ Walker instead of Judge Watkins. (ajr,) (Entered: 03/08/2006)
03/21/2006	⑭	NOTICE TO RETAINED CRIMINAL DEFENSE ATTORNEY Barry Teague as to Moses Pennic, III (ajr,) Modified on 3/22/2006 (snc): Duplicate; see 1/25/06 minute entry (Entered: 03/21/2006)
03/22/2006	⑮	NOTICE OF ATTORNEY APPEARANCE: Barry Elvin Teague appearing as retained counsel for Moses Pennic, III (ajr,) (Entered: 03/22/2006)
03/27/2006	⑯	MOTION to Continue pre-trial conference by Moses Pennic, III. (sql,) (Entered: 03/27/2006)
03/27/2006	⑰	ORDER as to Moses Pennic, III: GRANTING re <u>⑯</u> MOTION to Continue Pretrial Conference filed by Moses Pennic, III. Pretrial Conference rescheduled from 3/27/2006 to 4/3/2006 03:00 PM in Courtroom 5B

CONT. VOL. 1.

		before Honorable Susan Russ Walker. Signed by Judge Susan Russ Walker on 3/27/06. (jct,) (Entered: 03/27/2006)
04/03/2006	• <u>15</u>	Minute Entry for proceedings held before Judge Susan Russ Walker :Pretrial Conference as to Moses Pennic, III held on 4/3/2006 (Recording Time 3:32 - 3:33.) (jct,) (Entered: 04/03/2006)
04/04/2006	• <u>16</u>	PRETRIAL CONFERENCE ORDER as to Moses Pennic, III : Jury Selection set for 6/26/2006 before Honorable William Keith Watkins. Jury Trial set for 6/26/2006 before Honorable William Keith Watkins. There are no motions currently pending; A Second Pretrial Conference is set for 6/2/2006 at 03:00 PM in Courtroom 5B before Honorable Susan Russ Walker. Voir Dire due by 6/19/2006 ; Proposed Jury Instructions due by 6/19/2006 ; Motions in Limine due by 6/19/2006 ; Notice of Intent to Change Plea due by noon on 6/14/2006.Signed by Judge Susan Russ Walker on 4/4/06. (ws) (Entered: 04/04/2006)
06/02/2006	• <u>17</u>	Minute Entry for proceedings held before Judge Susan Russ Walker Pretrial Conference as to Moses Pennic, III held on 6/2/2006 (Recording Time 3:07 - 3:09.) (jct,) (Entered: 06/02/2006)
06/06/2006	• <u>18</u>	MOTION to Continue trial by Moses Pennic, III. (Attachments: # <u>1</u> affidavit)(ajr) (Entered: 06/06/2006)
06/06/2006	• <u>19</u>	Voir Dire Questions as to Moses Pennic, III (ajr) (Entered: 06/06/2006)
06/06/2006	• <u>20</u>	Proposed Jury Instructions by Moses Pennic, III (ajr,) (Entered: 06/06/2006)
06/09/2006	• <u>21</u>	ORDER TO CONTINUE - Ends of Justice as to Moses Pennic, III granting <u>18</u> MOTION to Continue filed by Moses Pennic, III; Jury Trial set for 6/26/06 is RESET for 10/16/2006 10:00 AM before Honorable William Keith Watkins. Signed by Judge William Keith Watkins on 6/9/06. (ajr,) (Entered: 06/09/2006)
06/12/2006	• <u>22</u>	ORDER as to Moses Pennic, III setting Pretrial Conference for 9/25/2006 03:00 PM in Courtroom 5B before Honorable Susan Russ Walker. Signed by Judge Susan Russ Walker on 6/12/06. (ajr) (Entered: 06/12/2006)
08/24/2006	• <u>23</u>	MOTION to Appoint Counsel / <i>Federal Defenders Office</i> by Moses Pennic, III. (Attachments: # <u>1</u> Financial Affidavit)(Butler, Kevin) (Entered: 08/24/2006)
08/25/2006	• <u>24</u>	NOTICE OF ATTORNEY APPEARANCE: Donnie Wayne Bethel appearing for Moses Pennic, III (Bethel, Donnie) (Entered: 08/25/2006)
08/25/2006	• <u>25</u>	ORDER granting <u>23</u> Motion to Appoint Attorney Kevin L. Butler for Moses Pennic, III . Signed by Judge Susan Russ Walker on 8/25/05. (ajr) (Entered: 08/25/2006)
09/25/2006	• <u>26</u>	Minute Entry for proceedings held before Judge Susan Russ Walker :Pretrial Conference as to Moses Pennic, III held on 9/25/2006 (Recording Time 3:45 - 3:50.) (jct,) (Entered: 09/25/2006)

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10/02/2006	•27 MOTION to Continue trial <i>Unopposed</i> by Moses Pennic, III. (Bethel, Donnie) (Entered: 10/02/2006)
10/02/2006	•28 WAIVER of Speedy Trial by Moses Pennic, III (Bethel, Donnie) (Entered: 10/02/2006)
10/02/2006	•29 ORDER as to Moses Pennic, III; Jury Selection set for 10/16/2006 before Honorable William Keith Watkins. Jury Trial (ETT 1-2 days) set for 10/16/2006 before Honorable William Keith Watkins. Voir Dire due by 10/6/2006; Proposed Jury Instructions due by 10/6/2006; Motions in Limine due by 10/6/2006; Notice of Intent to Change Plea due by noon on 10/4/2006. Signed by Judge William Keith Watkins on 10/2/06. (ajr) (Entered: 10/03/2006)
10/04/2006	•30 ORDER TO CONTINUE - Ends of Justice as to Moses Pennic, III granting <u>27</u> Motion to Continue Trial; continuing jury trial, now set for 10/16/06, for 1/8/07 at 10:00 a.m. before Honorable William Keith Watkins. Signed by Judge William Keith Watkins on 10/4/06. (ajr) (Entered: 10/04/2006)
10/04/2006	• Terminate October trial Deadlines and Hearings as to Moses Pennic, III; trial continued to 1/8/07 term. (ajr,) (Entered: 10/26/2006)
10/04/2006	• Reset 1/8/07 Jury Trial deadline deleted in error. (ajr,) (Entered: 12/05/2006)
10/05/2006	•31 ORDER as to Moses Pennic, III setting a Pretrial Conference for 12/18/2006 03:00 PM in Courtroom 5B before Honorable Susan Russ Walker. Signed by Judge Susan Russ Walker on 10/5/06. (ajr) (Entered: 10/05/2006)
10/05/2006	• Attorney update in case as to Moses Pennic, III. Attorney Barry Elvin Teague terminated (attorney deceased) (ajr) (Entered: 10/05/2006)
11/16/2006	•32 ORDER as to Moses Pennic, III setting Motions in limine deadline for 12/28/2006. Proposed Jury Instructions due by 12/28/2006. Signed by Judge Susan Russ Walker on 11/16/06. (ajr,) (Entered: 11/16/2006)
12/06/2006	•33 NOTICE OF ATTORNEY APPEARANCE Todd A. Brown appearing for USA. (<i>substitute counsel of record in place of AUSA David Cooke</i>) (Brown, Todd) (Entered: 12/06/2006)
12/07/2006	•34 MOTION to Substitute Attorney by USA as to Moses Pennic, III. (Brown, Todd) (Entered: 12/07/2006)
12/18/2006	•35 ORDER granting <u>34</u> Motion to Substitute Attorney. Attorney Todd A. Brown substituted for K. David Cooke.. Signed by Judge Susan Russ Walker on 12/18/06. (ajr,) (Entered: 12/18/2006)
12/18/2006	•36 Minute Entry for proceedings held before Judge Susan Russ Walker :Pretrial Conference as to Moses Pennic, III held on 12/18/2006 (Recording Time 3:50 - 3:53.) (jct,) (Entered: 12/18/2006)

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12/22/2006	<u>37</u>	Joint MOTION to Continue trial by Moses Pennic, III. (Bethel, Donnie) (Entered: 12/22/2006)
12/29/2006	<u>38</u>	ORDER TO CONTINUE - Ends of Justice as to Moses Pennic, III; granting <u>37</u> MOTION to Continue trial; Jury Trial set for 1/8/07 is RESET for 4/23/2007 before Honorable William Keith Watkins. Signed by Judge William Keith Watkins on 12/29/06. (ajr,) (Entered: 12/29/2006)
01/03/2007	<u>39</u>	ORDER as to Moses Pennic, III Pretrial Conference set for 4/2/2007 03:00 PM in Courtroom 5B before Honorable Susan Russ Walker. All applicable deadlines contained in the prior arraignment order and pretrial order are adjusted accordingly, except the deadline for dispositive motions, which is not extended. Signed by Judge Susan Russ Walker on 1/3/07. (kcg,) (Entered: 01/03/2007)
01/05/2007		Deadlines terminated as to Moses Pennic, III - 1/8/07 trial continued to 4/23/07 (ajr,) (Entered: 01/05/2007)
04/02/2007	<u>40</u>	Minute Entry for proceedings held before Judge Susan Russ Walker .Pretrial Conference as to Moses Pennic, III held on 4/2/2007 (PDF available for court use only) (Recording Time 3:32 - 3:33.) (jct,) (Entered: 04/02/2007)
04/10/2007	<u>41</u>	NOTICE OF INTENT TO CHANGE PLEA by Moses Pennic, III (Bethel, Donnie) (Entered: 04/10/2007)
04/11/2007	<u>42</u>	ORDER as to Moses Pennic, III setting Change of Plea Hearing for 4/12/2007 11:00 AM in Courtroom 5B before Honorable Susan Russ Walker; directing the Clerk to provide a court reporter for this proceeding; Signed by Judge Susan Russ Walker on 4/11/07. (ajr,) (Entered: 04/11/2007)
04/11/2007	<u>43</u>	NOTICE OF JURY LIST AND JURORS' PROFILES for Jury Selection and Trial commencing 4/23/07 (Attachments: #(1) Juror Questionnaire Certification #(2) Court Docket)(ajr,) (Entered: 04/11/2007)
04/12/2007	<u>44</u>	Consent to Enter Guilty Plea before U. S. Magistrate Judge as to Moses Pennic, III (ws,) (Entered: 04/12/2007)
04/12/2007	<u>45</u>	PLEA AGREEMENT as to Moses Pennic, III (ws,) (Entered: 04/12/2007)
04/12/2007	<u>46</u>	Minute Entry for proceedings held before Judge Susan Russ Walker :Change of Plea Hearing as to Moses Pennic, III held on 4/12/2007 (PDF available for court use only), Plea entered by Moses Pennic III (1) Guilty Count 1. (PDF available for court use only) Count 2 to be dismissed at sentencing. (Court Reporter Risa Entrekin.) (ws,) (Entered: 04/12/2007)
04/12/2007		ORAL ORDER Accepting Guilty Plea as to Moses Pennic, III and Adjudicating the defendant guilty as to Count(s) 1 of the Indictment . Signed by Judge Susan Russ Walker on 4/12/07. (ws,) (Entered: 04/12/2007)

CONT VOL 1.

04/12/2007	• ①	ORAL ORDER as to Moses Pennic, III that the defendant be released and continued on the same conditions of release imposed by the Magistrate Judge.. Signed by Judge Susan Russ Walker on 4/12/07. (ws,) (Entered: 04/12/2007)
04/18/2007	• ④7	MOTION to Strike <i>Forfeiture Allegation</i> by USA as to Moses Pennic, III. (Attachments: # 1 Text of Proposed Order)(Harmon, John) (Entered: 04/18/2007)
04/23/2007	• ④8	ORDER granting ④7 Motion to Strike Forfeiture Allegation from the Indictment as to Moses Pennic III (1). Signed by Judge William Keith Watkins on 4/23/07. (ws,) (Entered: 04/23/2007)
04/27/2007	• ④9	ORDER as to Moses Pennic, III setting Sentencing for 7/20/2007 10:15 AM in Courtroom 2E before Honorable William Keith Watkins; directing counsel to communicate in writing to the PO any objections to the PSR by 6/29/07, directing parties to be available for a conference with the PO on 7/2/07 at 9:00 a.m., as further set out in order, and directing that any motions for downward departure be filed before the conference; Signed by Judge William Keith Watkins on 4/27/07. (ajr,) (Entered: 04/27/2007)
05/24/2007	• ⑤0	Process Receipt and Return as to Moses Pennic, III on 05/23/07. (Harmon, John) (Entered: 05/24/2007)
06/18/2007	• ⑤1	ORDER as to Moses Pennic, III; Sentencing set for 7/20/07 is RESCHEDULED to 7/17/2007 09:15 AM in Courtroom 2E before Honorable William Keith Watkins. Signed by Judge William Keith Watkins on 6/18/07. (ajr,) (Entered: 06/18/2007)
07/16/2007	• ⑤2	MOTION for Downward Departure <i>for Substantial Assistance</i> by USA as to Moses Pennic, III. (Brown, Todd) (Entered: 07/16/2007)
07/16/2007	• ⑤3	MOTION for Reduction in Criminal Offense Level for Acceptance of Responsibility by USA as to Moses Pennic, III. (Brown, Todd) (Entered: 07/16/2007)
07/16/2007	• ⑤4	NOTICE OF ATTORNEY APPEARANCE Christopher A. Snyder appearing for USA. (Snyder, Christopher) (Entered: 07/16/2007)
07/17/2007	• ⑤5	Minute Entry for SENTENCING held 7/17/07 before Judge William Keith Watkins as to Moses Pennic, III. (PDF available for court use only) (Court Reporter Risa Entrekin.) (Attachments: #1 Defendant's Witness List #2 Defendant's Exhibit List) (ajr,) (Entered: 07/20/2007)
07/17/2007	•	ORAL ORDER as to Moses Pennic, III granting ⑤3 MOTION for Reduction in Criminal Offense Level for Acceptance of Responsibility; granting ⑤2 MOTION for Downward Departure for Substantial Assistance. Entered by Judge William Keith Watkins on 7/17/07. (ajr,) (Entered: 07/20/2007)
07/20/2007	• ⑤6	JUDGMENT as to Moses Pennic, III (1), Count(s) 1, 12 Mos, 1 Day Imp; 3 Yrs Sup Rel; \$100 AF; Count(s) 2, DISMISSED UPON MOTION BY

CONT VOL 1.

		THE GOVERNMENT . Signed by Judge William Keith Watkins on 7/20/07. (ajr,) (Entered: 07/23/2007)
07/20/2007		(Court only) ***Set Closed Flag as to Moses Pennic, III (ajr,) (Entered: 07/23/2007)
07/23/2007	•57	NOTICE OF APPEAL by Moses Pennic, III re <u>56</u> Judgment (Bethel, Donnie) (Entered: 07/23/2007)
07/23/2007	•	Transmission of Notice of Appeal and Certified copy of Docket Sheet and Order as to Moses Pennic, III to US Court of Appeals re <u>57</u> Notice of Appeal - Final Judgment (ydw,) (Entered: 07/23/2007)
07/24/2007	•58	PRESENTENCE INVESTIGATION REPORT (Sealed) as to Moses Pennic, III. (ajr,) (Entered: 07/24/2007)
07/27/2007	•	USCA Case Number as to Moses Pennic, III 0713378-G for <u>57</u> Notice of Appeal - Final Judgment filed by Moses Pennic, III. (ydw,) (Entered: 07/30/2007)
07/31/2007	•59	RECEIVED TRANSCRIPT REQUEST re <u>57</u> Notice of Appeal - Final Judgment from Donnie Bethel counsel for Moses Pennic, III, with following notation: "I Am Ordering A Transcript Of The Following Proceeding" Sentencing proceedings held on 07/17/07 before Judge William Keith Watkin, Risa Entrekin Court Reporter. Copy to RE/CR. (ydw,) (Entered: 08/01/2007)
08/29/2007	•60	TRANSCRIPT re <u>57</u> Notice of Appeal - Final Judgment of (PDF available for court use only) Sentencing Hearing filed as to Moses Pennic, III for dates of 07/17/07 before Judge William Keith Watkin, Reporter: Risa Entrekin. (ydw,) (Entered: 08/29/2007)

VOLUME 2

END VOL. 1.